

Serial No. 09/991,466  
Reply to Office Action of August 5, 2004

### REMARKS/ARGUMENTS

Claims 4-10 are pending in this application. All pending claims are rejected. Claims 4 and 8 have been amended. New claims 11-16 have been added.

Claims 4-10 stand rejected under 35 USC 102(e) as being anticipated by *Varian et al* (US Patent No. 5,880,007). The rejection of claims 4-10, as amended, is respectfully traversed for the reason that these claims now contain at least one limitation not taught in the cited reference.

Claims 4 and 8 have been amended to recite that the thickness of the oxide layer once a "rectangular-profiled portion" is etched, is still "substantially uniform". Clear support for this amendment is found in drawing FIG. 2C and in the corresponding specification text. See also page 7, lines 13-17 of the specification. Note in particular that the height of the oxide layer 48a on the edges of the large active area and the height of the oxide layer 48b over the small active area are substantially equal, resulting in a remaining oxide layer having a "substantially uniform maximum thickness" as claimed. No new matter is deemed to have been added to amended claims 4 and 8.

In contrast, *Varian et al* teaches a remaining oxide layer 163 in which the maximum thickness is not uniform across the large and small active areas. The height of the remaining oxide layer over the small active areas is at a first, lower thickness, and the height of the remaining oxide layer at the edge of the large active areas is at a second, much higher thickness. This is clearly seen in FIG. 1F of *Varian et al*. Thus, the invention in *Varian et al* will not provide the advantages of the claimed present invention, which is to provide a more uniform oxide layer profile so that a later CMP operation is also desirably more uniform.

Claims 4 and 8 are therefore deemed to be allowable under 35 USC 102(e). Claims 5-7 and 9-10 are also deemed to be allowable as being dependent upon base claims 4 and 8.

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New claims 11 and 14 are supported by FIG. 2C and corresponding specification text. No additional sacrificial layers are added to the oxide layer as is clearly shown in *Varian et al.* No new matter is introduced into claims 11 and 14.

New claims 12 and 15 are supported by FIGS. 2D and 2E and corresponding specification text. No new matter is introduced into claims 12 and 15.

New claims 13 and 16 are supported by FIG. 3D and corresponding specification text. No new matter is introduced into claims 13 and 16.

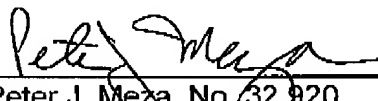
New claims 11-13 are deemed to be allowable, inter alia, as depending from allowable base claim 4. New claims 14-16 are deemed to be allowable, inter alia, as depending from allowable base claim 8.

In view of all of the above, all claims 4-16 are believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

10/4, 2004

  
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